

REMARKS/ARGUMENTS

Reconsideration of the application is requested.

On December 19, 2003 Applicant filed a Claim for Priority under 35 U.S.C. § 119 and a Certified copy of German Patent Application 102 08 502.1, filed February 27, 2002. However, no acknowledgement of receiving such papers was made in items 12), 12a) and 12a)1. on the Office Action Summary page of the above-identified Office Action. Applicant would appreciate acknowledgement of the receipt of the Claim for Priority and certified priority document in the next communication from the patent Office.

Claims 1-2 and 4-6 remain in the application and are subject to examination. Claims 1 and 4 have been amended and claim 3 has been canceled.

In item 4 on pages 3-5 of the Office action, claims 1-4 and 6 have been rejected as being unpatentable over JP 7-43486 in view of EP 0 557 085 A1 and DeMario et al. (US 4,692,302) under 35 U.S.C. § 103(a).

In item 5 on pages 5-6 of the Office action, claim 5 has been rejected as being unpatentable over JP 7-43486 in view of EP

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0 557 085 A1 and DeMario et al. and further in view of Kang et al. (US 6,744,843 B2) under 35 U.S.C. § 103(a).

In item 6 on page 6 of the Office action, claim 6 has been rejected as being unpatentable over JP 7-43486 in view of EP 0 557 085 A1 and DeMario et al. and further in view of JP 02002980 under 35 U.S.C. § 103(a).

The rejections have been noted and the claims have been amended in an effort to even more clearly define the invention of the instant application. More specifically, the subject matter of claim 3 has been added to claim 1 and claim 4 has been amended to be dependent on claim 1.

It is believed that the claims are patentable over the cited art, as will be explained below.

Before discussing the prior art in detail, it is believed that a brief review of the invention as claimed, would be helpful. Claim 1 calls for, *inter alia*, a spacer for a fuel assembly of a boiling water reactor, comprising:

a frame formed with outer webs and inner webs oriented crossways with respect to one another;

gills formed on an outer side of said outer webs and projecting to a given extent from said outer side;

a plurality of projections each formed by a bulge in a wall of said outer webs and projecting outwardly to a greater extent than said given extent of said gills, said projections being disposed in a region of a respective said inner web; and

a deflector lug formed integrally on a lower edge of said projections.

Thus, claim 1 as amended now calls for a deflector lug formed integrally on a lower edge of projections of outer webs.

In the third paragraph on page 4 of the Office action, the Examiner has stated that "JP 7-43486 also teaches deflector lugs (Fig. 9, articles 13 and 25), . . . the deflectors shown in Fig. 2b of JP 7-43486, which appear to be integrally formed on the perimeter strip and extend above a projecting surface, read on the limitations of claim 3."

Applicant disagrees with the Examiner's interpretation of the JP 7-43486 reference and its applicability to former claim 3 of the instant application, the limitations of which are now found in claim 1.

Fig. 2b of JP 7-43486 discloses generally conventional flow tabs 13 which are formed integrally at the upper edge of the outer webs. The flow tabs extend to the interior of the spacers or a fuel assembly. In Fig. 9, such flow tabs

(reference numeral 25) are present at the lower edge of the outer webs of the spacer.

According to the present invention, as shown in Fig. 3, the deflector lugs 13 are formed at the lower edge of the projections 9 disposed at the outer side of the outer webs 3. Such a structure is neither taught nor rendered obvious by JP 7-43486.

The flow tabs 13 or 25 provided in the fuel assembly of JP 7-43486 all serve the purpose of turbulently mixing the primary coolant. The same applies to the tabs disclosed in DeMario et al. When inserting a fuel element into a fuel assembly channel, the tabs of the conventional fuel elements do not come into contact at all with the upper edge of the fuel assembly channel. However, that intentionally occurs in the invention of the instant application, in order facilitate the insertion of a fuel element into a fuel assembly channel. This is also described in the second and third paragraphs on page 2 of the Specification of the instant application.

Clearly, neither JP 7-43486 nor DeMario et al. nor any of the other prior art show a deflector lug formed integrally on a lower edge of projections of outer webs, as recited in claim 1 of the instant application.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claim 1. Claim 1 is, therefore, believed to be patentable over the art. The dependent claims are believed to be patentable as well because all of the dependent claims are ultimately dependent on claim 1.

In view of the foregoing, reconsideration and allowance of claims 1-2 and 4-6 are solicited.

Applicant has also filed an RCE concomitantly with the filing of the instant Amendment.

In the event the Examiner should still find any of the claims to be unpatentable, counsel would appreciate receiving a telephone call so that, if possible, patentable language can be worked out.

Petition for extension is herewith made. The extension fee for response within a period of two months pursuant to Section 1.136(a) in the amount of \$450.00 in accordance with Section 1.17 is enclosed herewith.

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Please charge any other fees that might be due with respect
to Sections 1.16 and 1.17 to Deposit Account Number 12-1099
of Lerner Greenberg Stemer LLP.

Respectfully submitted,

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LAG/bb

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